
CITY OF KELOWNA

MEMORANDUM

Date: July 6, 2004
File No.: File No. 6520-20
To: City Manager
From: Director of Planning and Corporate Services
Subject: CEDAR AVENUE LAND USE REVIEW

RECOMMENDATIONS

THAT the map attached to the Cedar Avenue OCP Amendment Bylaw No. 9234 be revised to reflect an increase in the Major Park / Open Space designated portion on those City owned properties between Cedar Avenue and Meikle Avenue as shown in Appendix 2;

AND THAT the revised Cedar Avenue OCP Amendment Bylaw No. 9234, as outlined in the Planning and Corporate Services Department's report of July 6, 2004, be considered for 2nd and 3rd readings and final adoption;

AND FURTHER THAT Council consider, by resolution, an amendment of Council Policy #76 to include restrictions on disposition and development of City owned property in the Cedar Avenue area as indicated in Appendix 1.

BACKGROUND

On December 8th, 2003 Council asked staff to initiate a process to review land uses within the Cedar Avenue neighbourhood in South Pandosy. Staff was asked to complete the review within six months so that the work would be finished by the time the related six-month study area "rezoning moratorium" was slated to expire (June 8th, 2004).

The purpose of the land use review was to identify whether OCP amendments would be required to facilitate redevelopment consistent with the objective of creating a vibrant mixed-use neighbourhood within the Cedar Avenue neighbourhood in the South Pandosy Town Centre.

On May 18th, 2004 Council held and closed the Public Hearing with respect to OCP Amendment Bylaw 9234, which is a proposed amendment to future land uses in the Cedar Avenue Area. On June 7th, 2004 Council resolved:

THAT further consideration of Bylaw No. 9234 be tabled for staff to report back with potential amendments to the bylaw that could be made without requiring a new Public Hearing, taking into consideration Council's desire to alter the ratio of commercial and green space indicated for the City-owned lots along the foreshore, and for staff to bring forward a draft Council policy for imposing restrictions on potential uses that could be considered in conjunction with a future hotel.

With respect to potential restrictions on City-owned commercially designated land, there was particular mention of: restrictions on the height and use of any hotel use to a boutique hotel with a limitation on the number of rooms; precluding facilities requiring a liquor primary license; and preventing installation of a power boat marina.

DISCUSSION

The procedure a Council must follow after the closing of a public hearing is set out in section 894 of the *Local Government Act*. The relevant sub-section is:

Procedure after a public hearing

894 (1) After a public hearing, the council or board may, without further notice or hearing,

- (a) adopt or defeat the bylaw, or
- (b) alter and then adopt the bylaw, provided that the alteration does not
 - (i) alter the use,
 - (ii) increase the density, or
 - (iii) without the owner's consent, decrease the density of any area from that originally specified in the bylaw.

The prohibition against altering the use includes altering any future land use specified in the bylaw. The following chart gives examples of changes Council may request and whether this could be done without the requirement to hold an additional public hearing:

Bylaw 9234	Change	Change in Use? 894(1)(i)	Change in Density? 894(1)(ii) 894 (1)(iii)	Alteration to bylaw permitted under LGA without new Public Hearing?
Multiple Unit Residential – Low Density	Single/Two Unit Residential	Yes	Yes – lower	No, altering use
Multiple Unit Residential – Low Density	Multiple Unit Residential – Medium Density	No	Yes – higher	No, increase in density
Multiple Unit Residential – Low Density	Commercial	Yes	Yes – higher	No, altering use and increase in density
Multiple Unit Residential – Low Density	Major Park/Open Space	Yes	Yes – lower	No, altering use
Multiple Unit Residential – Medium Density	Single/Two Unit Residential	Yes	Yes – lower	No, altering use
Multiple Unit Residential – Medium Density	Multiple Unit Residential – Low Density	No	Yes – lower	Yes, with permission of property owner(s)
Multiple Unit Residential – Medium Density	Commercial	Yes	Yes – higher	No, altering use and increase in density
Multiple Unit Residential – Medium Density	Major Park/Open Space	Yes	Yes – lower	No, altering use
Commercial	Single/Two Unit Residential	Yes	Yes – lower	No, altering use
Commercial	Multiple Unit Residential – Low Density	Yes	Yes – lower	No, altering use
Commercial	Multiple Unit Residential – Medium Density	Yes	Yes – lower	No, altering use
Commercial	Major Park/Open Space	Yes	Yes – lower	No, altering use
Major Park/Open Space	Single/Two Unit Residential	Yes	Yes – higher	No, altering use and increase in density
Major Park/Open Space	Multiple Unit Residential – Low Density	Yes	Yes – higher	No, altering use and increase in density
Major Park/Open Space	Multiple Unit Residential – Medium Density	Yes	Yes – higher	No, altering use and increase in density
Major Park/Open Space	Commercial	Yes	Yes – higher	No, altering use and increase in density
Commercial – Multiple Unit Residential – Medium Density mixed	Commercial – Multiple Unit Residential – Medium Density mixed – increase Multiple Unit Residential – Medium Density mixed portion	No	Yes - lower	Yes, with permission of property owner(s)
Commercial – Multiple Unit Residential – Medium Density mixed	Commercial – Multiple Unit Residential – Medium Density mixed – increase Commercial portion	No	Yes - higher	No, increase in density
Commercial – Major Park/Open Space mixed	Commercial – Major Park/Open Space mixed – increase Major Park/Open Space portion	No	Yes – lower	Yes, with permission of property owner(s)
Commercial – Major Park/Open Space mixed	Commercial – Major Park/Open Space mixed – increase Commercial portion	No	Yes – higher	No, increase in density

With respect to Bylaw 9234, the proposed land use designation on the four City owned properties between Cedar Avenue and Meikle Avenue is for a mix of Major Park / Open Space and Commercial. Given that the City owns this land and that both potential designations are on these properties, and that the overall density would be decreased, it would be possible to increase the amount of land designated for park space in the proposed bylaw without the need to hold a new public hearing. It is suggested that up to one-half of these properties could be shown as Major Park / Open Space, thereby reducing the amount of land designated Commercial. Appendix 2 indicates the revised future land uses.

The majority of City owned lands north of Cedar Avenue are shown as Commercial in Bylaw 9234. Given that these properties are shown in the Bylaw as having only Commercial uses, it would not be possible to change the land uses on these properties without holding a new public hearing. It is suggested that the designation of "Commercial" remain as currently indicated in Bylaw 9234, but that through Council Policy, the height of any commercial development within 25 metres of single unit waterfront homes be limited to 2 ½ stories as a transition or buffer to reduce the impact to nearby properties of any potential developments on City lands. The 2 ½ stories would be the same as the allowable height in the existing Single / Two Unit areas to the north.

Council Policy No. 76 currently provides conditions for the disposal of city property. It is suggested that this policy could be amended to impose specific conditions on the Cedar Avenue properties to address neighbourhood concerns with respect to height, types of uses included and operation of any hotel developments. The *added* wording in Council Policy No. 76 could read:

That the City of Kelowna, with respect to its properties located at the foot of Cedar Avenue will require that building heights within 25 m of non City-owned single unit waterfront homes be no more than 2.5 stories in height and that any potential rezoning to allow for a hotel, not include provision for any of the following uses:

- Powerboat marina
- Facilities requiring a liquor primary license
- Hotel in excess of 50 units

Appendix 1 (item 5) shows the draft amended Policy No. 76, including a list of property addresses affected by this policy amendment.

SUMMARY

It is recommended that the Official Community Plan be amended as necessary to reflect the land use pattern shown in Appendix 2. It is also recommended that Council Policy No. 76 be amended to include restrictions on potential development in the Cedar Avenue area as

indicated in Appendix 1.

Signe K. Bagh, MCIP
Manager
Policy Research & Strategic Planning

SKB/sb

Approved for inclusion ☐

R.L. (Ron) Mattiussi, ACP, MCIP
Director of Planning & Development Services

Attachments

cc: City Clerk
Manager, Community Development and Real Estate

APPENDIX # 1: Council Policy No. 76

CITY OF KELOWNA

COUNCIL POLICY MANUAL

POLICY: 76
PAGE: 1 of 1
APPROVAL DATE: 1999/11/01
RESOLUTION #: R892/99/11/01
REPLACING #: R-1971/07/06
DATE OF LAST REVIEW: December 2000

SUBJECT: DISPOSAL OF CITY PROPERTY

1. THAT property of the City of Kelowna be sold when it appears that there is no present or future use contemplated.
2. THAT the Land Agent continually keep the property inventory of the City under review and submit recommendations to the Municipal Council for disposal of any property considered not to have present or reasonable future use to the City.
3. THAT each sale be considered on its own merits by the Municipal Council taking into consideration the recommendations of the Land Agent.
4. THAT, when permitted by statute, lands may be listed for sale through real estate at the discretion of the Land Agent.
5. THAT the City of Kelowna, with respect to its properties located at the foot of Cedar Avenue (see below for properties affected) will require that building heights within 25 m of non City-owned single unit waterfront homes be no more than 2.5 stories in height and that any potential rezoning to allow for a hotel, not include provision for any of the following uses:

- Powerboat marina
- Facilities requiring a liquor primary license
- Hotel in excess of 50 units

- Properties Affected (by address)

3020 Abbott Street	3060 Abbott Street	3096 Walnut Street
3030 Abbott Street	3070 Abbott Street	3098 Walnut Street
3040 Abbott Street	3080 Abbott Street	252 Meikle Avenue
3050 Abbott Street	3090 Walnut Street	

REASON FOR POLICY: To identify that the City only acquires and holds land when it is needed.

LEGISLATIVE AUTHORITY: *Local Government Act*, Sec. 176

PROCEDURE FOR IMPLEMENTATION: As outlined in this policy.

APPENDIX # 2: OCP AMENDMENTS (OCP04-0008)